

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS**

Steven B. Pollack and Blue Eco Legal Council,	)	
	)	
	)	
Plaintiffs,	)	Case Number: 08-cv-320
	)	Assigned Judge: Guzman
v.	)	Magistrate Judge: Brown
	)	
United States Department of Justice,	)	
United States Coast Guard,	)	CWA, RCRA, CERCLA, AND
United States Navy,	)	PUBLIC NUISANCE FTCA CASE
United States Marines, and	)	
United States Department of Defense,	)	
	)	
Defendants.	)	

**PLAINTIFFS' MOTION TO COMPEL PRODUCTION OF  
AMMUNITION USE RECORDS**

Plaintiffs ask this Court to once again order Defendants to turn over discovery for ammunition use records at the FBI facility in North Chicago as ordered by this Court March 26, 2008.

On March 26, 2008, Plaintiffs requested 30 years of ammunition use records. This Court ordered Defendants to turn over three years of use records for the North Chicago facility. Defendants subsequently offered Plaintiffs a document titled "r Ammon 2005-2008" as responsive to this Court's order but with a string attached, that Plaintiffs agree to a protective order regarding the contents.

After Plaintiffs refused the protective order and the April 21, 2008 agreed discovery deadline passed without the document or other ammunition use records being produced, Plaintiffs filed a motion to compel the production of this document. Defendants argued that this document should not be produced because it did not contain the ammunition use for this facility but rather the ammunition purchased for this facility and other FBI facilities. The Court agreed that this information was not what was ordered and denied Plaintiffs' motion to compel.

This amounts to a bait and switch by the Defendants which resulted in Plaintiffs and this Court wasting resources arguing over a document that Defendants knew was not responsive to

this Courts March 26, 2008 order to produce ammunition use records. Defendants have still not produced the ordered documents.

The basis of this limited discovery is to give Plaintiffs the information they need to respond to Defendants' motion to dismiss, due April 30, 2008. It does not serve Plaintiffs goals in this litigation to delay the proceeding for Defendants to comply with this Court's clear order for production. Plaintiffs are willing to limit their request to the past 12 month's records for the use of shotgun ammunition at this range in order to show that violations were ongoing as of the filing of this suit. If Defendants again refuse to produce this information, Plaintiffs request the Court order the sanctions requested by separate motion.

Respectfully submitted,

s/ Steven B. Pollack  
Steven B. Pollack, Attorney  
Executive Director, Blue Eco Legal Council  
3390 Commercial Ave  
Northbrook, IL 60062  
steve@ecoessq.com  
847-436-9566

**CERTIFICATION OF GOOD FAITH EFFORT TO OBTAIN DISCOVERY  
WITHOUT INVOLVING THIS COURT**

Plaintiffs sought, and received, an order of this Court that three years of ammunition use records for the North Chicago FBI range. Plaintiffs then tried to obtain these records in three separate phone conversations with Defendants. Additionally, numerous emails were exchanged between the parties regarding this document. Defendants demanded a protective order before turning over this document but failed to file for one by the agreed discovery date. Plaintiffs need this discovery pertaining to jurisdictional facts to respond to Defendants' motion to dismiss that is due April 30, 2008.

Dated: April 28, 2008

/s/ Steven B. Pollack  
Counsel for Plaintiffs

**CERTIFICATE OF SERVICE**

I hereby certify that on the date below the foregoing PLAINTIFFS' MOTION TO COMPEL PRODUCTION OF AMMUNITION USE RECORDS was filed electronically. Notice of this

filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

Dated: April 28, 2008

/s/Steven B. Pollack  
Counsel for Plaintiffs